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In re Application of TANSEKANEN et al :
U.S. Application No.: 09/981,688 :
PCT Application No.: PCT/US00/14694 :
Int. Filing Date: 30 May 2000 : DECISION
Priority Date Claimed: 28 May 1999 :
Attorney Docket No.: 004770.00566 (NC28056) :
For: REAL-TIME INTERACTIVE AND :
PERSONALIZED VIDEO SERVICES :

This is in response to applicant's "Petition to Act on Previously-Filed Petition and Petition to Confirm Priority Claims" filed 22 November 2006, which are being treated collectively as a petition under 37 CFR 1.182. The requisite petition fee has been submitted.

BACKGROUND

On 30 May 2000, applicant filed international application PCT/US00/14694, which claimed priority of an earlier United States application filed 28 May 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 01 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 December 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 28 November 2001.

On 14 June 2001, the International Bureau published a corrected version of international application PCT/US00/14694.

On 17 October 2001, applicant filed an application under 35 U.S.C. 111(a), which was purportedly a continuation of international application PCT/US00/14694, along with a petition to revive international application PCT/US00/14694 under 37 CFR 1.137(b).

On 22 November 2006, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the United States was withdrawn as a designated state in international application PCT/US00/14694. The published corrected version of international application PCT/US00/14694 confirms that the United States is not a designated state.

35 U.S.C. 363 states,

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.

35 U.S.C. 366 states,

Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect after the date of withdrawal and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, filed before the date of such withdrawal. However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, if it designated a country other than the United States.

In the present case, because international application PCT/US00/14694 was withdrawn as to the United States, international application PCT/US00/14694 does not have the effect of a national application for patent regularly filed in the USPTO.

The papers filed 17 October 2001 satisfy the requirements for a filing date under 35 U.S.C. 111(a). However, because international application PCT/US00/14694 does not have the effect of a U.S. national application, the present application 09/981,688 is not entitled to the benefit of the filing date of international application PCT/US00/14694 under 35 U.S.C. 120. Accordingly, any reference to the present application as a continuation of international application PCT/US00/14694 is improper. Furthermore, the present application is not entitled to the benefit of the filing date of U.S. provisional application 60/136,589 under 35 U.S.C. 119(e), because the present application was filed later than 12 months after the date of the provisional application filing date.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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